

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY CAIRO IMMEDIATE

C O N F I D E N T I A L STATE 280417

LIMDIS

E.O. 11652: GDS

TAGS: PFOR EFIN EAID CPRS OTRA (HUANG, THOMAS T.F.) EG US

SUBJECT: CLAIMS AGAINST EGYPT (CONTRACTUAL AND DEBT
OBLIGATIONS)

REF: (A) CAIRO 11988, (B) STATE 279013

1. DEPT UNDERSTANDS PARA. 4 OF REFTTEL TO MEAN THAT
HUANG'S CONSIDERED JUDGMENT IS THAT GOE HAS NOT
AFTER JANUARY 1, 1962 TAKEN STEPS TO REPUDIATE OR
NULLIFY ANY CONTRACT OR AGREEMENT WITH ANY U.S.
CITIZEN OR CORPORATION. WHETHER BREACH OR NON-PERFORMANCE
IN A PARTICULAR CASE WOULD OR WOULD NOT BE TANTAMOUNT TO
A REPUDIATION OR NULLIFICATION IS A JUDGMENT BEST
REACHED IN THE LIGHT OF EACH CASE. ON THE ONE HAND, IT
MAY BE ARGUED THAT THE PROVISIONS OF SEC. 620(C) INFER
THAT SEC. 620 (E) (1) (B) IS RESTRICTED TO CASES OF DIRECT
AND FORMAL REPUDIATION OR NULLIFICATION BY THE GOVERNMENT
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CONCERNED. ON THE OTHER HAND, IT COULD BE ARGUED THAT

THE TERMS "REPUDIATION" AND "NULLIFICATION" MAY BE MORE BROADLY INTERPRETED TO EMBRACE A COURSE OF CONDUCT BY A GOVERNMENT WHICH, WHILE NOT FORMALLY CONSTITUTING REPUDIATION OR NULLIFICATION, AMOUNT TO IT, E.G., WHERE A GOVERNMENT TAKES DE FACTO MEASURES WHICH DEPRIVE AN ALIEN OF ALL HIS CONTRACTUAL RIGHTS. THUS WE BELIEVE

THAT TECHNICAL DISTINCTION TO WHICH HUANG DRAWS ATTENTION, WHILE MATERIAL, MAY NOT BE DISPOSITIVE; THE FACTS OF THE PARTICULAR CASE GOVERN. IF IT IS HUANG'S JUDGMENT, BASED ON HIS UNIQUE KNOWLEDGE OF THE CLAIMS FILED AGAINST GOE, THAT THERE ARE NO CASES THAT FALL WITHIN EITHER OF THE FOREGOING PROVISIONS OF SEC. 620, CONSTRUED IN THE LATTER, BROADER WAY, WE SEE NO NEED TO CAUTION THE GOE PER PARA. 5 OF REFTEL (B). HOWEVER, IF THERE IS ROOM FOR DOUBT, WE BELIEVE IT WOULD BE DESIRABLE TO EXPRESS SUCH A CAUTION TO GOE IN A LOW KEY MANNER BEFORE INITIALING. IN CIRCUMSTANCES, THIS IS A DECISION WE MUST LEAVE TO EMBASSY AS ADVISED BY HUANG.

2. IN RESPONSE TO AMBASSADOR'S REQUEST, HUANG AUTHORIZED TO CONTINUE HIS STAY IN CAIRO UNTIL AGREEMENT AD REFERENDUM HAS BEEN INITIALED.

3. MRS. HUANG INFORMED OF EXTENSION OF STAY. KISSINGER

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